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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/295,690 | 04/21/1999 | JEROME A MOUTON JR. | 081862.P122 | 7482 |

7590 07/16/2002

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EXAMINER

FLEURANTIN, JEAN B

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2172

DATE MAILED: 07/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/295,690

Applicant(s)

MOUTON ET AL.

Examiner

Jean B Fleurant

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Response to Amendment

1. Claims 1-17 are remained for examination.
2. Applicant's request for reconsideration of the finality of the rejection of the last Office action mailed on 03/15/02 is persuasive and, therefore, the finality of that action is withdrawn.

Response to Applicant' Remarks

3. On pages 4 and 5, Applicant stated that Flynn does not teach or suggest 'receipt of an update message having a first version format'. However, Examiner disagrees because Babu includes steps of a first version of management information base set information is stored in a database table a second version of management information base set information to be compared to the first version is generated by requesting values or the contents of a management information base set from a network device; which is readable as receiving an update message having a first version format) (see col. 19, lines 6-10). Also, in column 15, lines 20 through 26 Babu further teaches the step of using the change information the change detection mechanism update the device profile table by storing new values for only those management information base set values that have changed, the new values that are stored are those previously received from the network device in this way the device profile table is update with only that information from the network device that has changed. Thus, it would have been obvious to a person of ordinary in the art at time the invention was made to modify the teachings of Flynn and Babu with the step of receiving an update message having a first version format. This modification would allow the

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teachings of Flynn and Babu to improve the accuracy of the method and apparatus for upgrading a database in a redundant environment by release chaining, and provide a clear distinction between previously collected information sets and a newly collected information sets on a network device, see col. 4, lines 43-45.

In response to applicant's argument on page 2, that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification.

Interpretation of Claims-Broadest Reasonable Interpretation

During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In *re Prater*, 162 USPQ 541,550-51 (CCPA 1969).

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Claim Rejections - 35 U.S.C. § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn, Rex A. et al. (Publication number 0 520 459 A2) in view of Babu et al. (US Pat. No. 6,122,639) (“Flynn”), (“Babu”).

As per claims 1, 5, 9 and 13 Flynn substantially teaches a method of updating a message from a first version to an upgraded version by chaining through intermediate versions as claimed, comprises repeatedly generating a revised update message having a next most recent version format based on the update message until a final update message having an upgraded version format is generated (thus, the latest version refers to a version of an information object that reflects the most recent state of the information object, any version that prior to the latest version is maintained by recording only the portion of the prior version which represent the differences between it and the latest version the delta changes are encoded representations of the changes that are used to generate an older version of an information; which readable as repeatedly generating a revised update message having a next most recent version format based on the

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update message until a final update message having an upgraded version format is generated) (see cols. 3-4, lines 52-4). But, Flynn does not explicitly indicate the step of receiving an update message having a first version format. However, Babu implicitly indicates steps of a first version of management information base set information is stored in a database table a second version of management information base set information to be compared to the first version is generated by requesting values or the contents of a management information base set from a network device; which is readable as receiving an update message having a first version format) (see col. 19, lines 6-10). Also, in column 15, lines 20 through 26 Babu further teaches the step of using the change information the change detection mechanism update the device profile table by storing new values for only those management information base set values that have changed, the new values that are stored are those previously received from the network device in this way the device profile table is update with only that information from the network device that has changed. Thus, it would have been obvious to a person of ordinary in the art at time the invention was made to modify the teachings of Flynn and Babu with the step of receiving an update message having a first version format. This modification would allow the teachings of Flynn and Babu to improve the accuracy and the reliability of the method and apparatus for upgrading a database in a redundant environment by release chaining, and provide a mechanism that can detect changes in the network and preserve a record of such changes for further analysis without adversely affecting the data collection mechanism (see col. 1, lines 57-60).

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As per claims 2, 6, 10 and 15, in addition to the discussion in claim 1 above, Flynn further teaches calling a next most recent version mapping function to map contents of the first update message to generate a second update message (thus, the latest version refers to a version of an information object that reflects the most recent state of an information object any version that prior to the latest version is maintained by recording only the portions of the prior version which represent the differences between it and the latest version the delta changes are encoded representations of the changes that are used to generate an older version of an information object; which is readable as calling a next most recent version mapping function to map contents of the first update message to generate a second update message) (see cols. 3-4, lines 52-4).

As per claims 3, 7, 11 and 16 the limitations of the claims 3, 7, 11 and 16 are rejected in the analysis of claim 1 above, and these claims are rejected on that basis.

As per claims 4, 8, 12 and 17 Flynn substantially teaches a method as claimed, wherein the set of records for the database in the first version is a complete set of records for the database (thus, a database of information objects is maintained on the disk drive or some other storage medium in the computer system, achieves versioning by maintaining complete latest versions of each one of the plurality of information objects and each one of the plurality of index entries in the index, the latest version refers to a version of an information object that reflects the most recent state of an information object; which is readable as wherein the set of records for the database in the first version is a complete set of records for the database) (see col. 3, lines 43-55). Also in column 4, lines 34 through 37, Flynn further teaches the step of the changes are stored as

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incremental backup changes to the information objects and index entries for each time the objects or index entries were changed.

As per claim 14, Flynn substantially teaches a method as claimed, wherein the network switching device receives a first update message (thus, the value in the title field 68 of the object 72 has been modified from networked systems to 'distributed and networked systems', a new version of the object 72 referred to as the latest version is created to reflect this change; which is readable as wherein the network switching device receives a first update message) (see col. 12, lines 40-47).

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Southgate US Patent Number 6,205,579 relates to a method for providing software technical support, and provides a method by which software upgrades and fixes for software bugs may be incorporated into a customer's software from the remote location. Nakagawa et al. US Patent Number 5,835,911 relates to update and maintain the software at request of the users and with which the users obtain a lot of software from plural software vendors over the network and can use the latest versions of the software over the network.

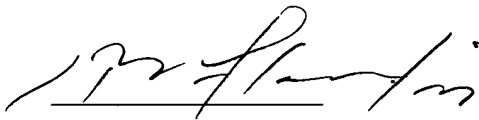
Conclusion

6. Any inquiry concerning this communication from examiner should be directed to Jean Bolte Fleurantin at (703) 308-6718. The examiner can normally be reached on Monday through Friday from 7:30 A.M. to 6:00 P.M.

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If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Mrs. KIM VU can be reached at (703) 305-8449. The FAX phone numbers for the Group 2100 Customer Service Center are: *After Final* (703) 746-7238, *Official* (703) 746-7239, and *Non-Official* (703) 746-7240. NOTE: Documents transmitted by facsimile will be entered as official documents on the file wrapper unless clearly marked "**DRAFT**".

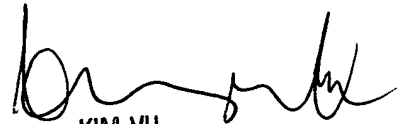
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2100 Customer Service Center receptionist whose telephone numbers are (703) 306-5631, (703) 306-5632, (703) 306-5633.



Jean Bolte Fleurantin

July 11, 2002

JBF/



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